



H.R. 1004 – Regulatory Integrity Act of 2017 (Walberg, R-MI)

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FLOOR SCHEDULE:

Expected to be considered on Thursday, March 2, 2017 under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 1009](#) would require executive agencies to publish information about pending regulatory actions online, prohibit public advocacy for regulatory actions by agencies, and require agencies to submit annual reports on regulatory activities to appropriate congressional committees of jurisdiction.

COST:

No Congressional Budget Office (CBO) estimate is available.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 1004 would require agencies to publish information about pending regulatory actions online. Regulatory actions would be defined to include: guidance, policy statements; directive; rule making; or, adjudication by the agency. The information required to be published would include a list of all pending regulatory actions and for each action: a description of the action; the status of the action; the date on which the agency began developing or considering each action; the estimated effective date of the action. Further, the bill would require agencies to publish information about any public communication related to a regulatory action, including the date, intended audience, and method of a communication, as well as a copy of the original communication itself.

These materials would be required to be posted online within 24 hours of any public communication related to an action.

Public communications would also be required to include several specific pieces of information, including: whether the agency is considering alternatives; if the agency is accepting comments; and, a disclosure that the agency is the source of the information in the communication. Agencies would also be prohibited from using public communications to advocate for regulatory actions or to use them for publicity or propaganda purposes.

Finally, the bill would require that each agency submit an annual report to the appropriate committee of jurisdiction in Congress detailing the number of pending regulatory actions, the average number of public communications issued by the agency, the five pending items with the highest number of public comments, and a copy of each public communication on those top five items.

AMENDMENTS:

1. [Rep. Jackson Lee \(D-TX\)](#) – This amendment would define propaganda, publicity, and advocacy as statements that are not widely supported in the scientific community or that are beliefs or assertions that are not supported by science and empirical data. Several agencies throughout the Obama administration frequently engaged in public relations campaigns to support pending regulatory actions. This amendment would make it less likely that such advocacy campaigns would be prohibited under the terms of the underlying bill.
2. [Rep. Messer \(R-IN\)](#) – This amendment would add a requirement for an agency to disclose a list of regulatory actions issued by that agency or any other that duplicate or overlap with the pending action.
3. [Rep. Jackson Lee \(D-TX\)](#) – This amendment would add a statement that the provisions of the bill would not apply to any communication that is protected under the First Amendment. Such an amendment is duplicative, as Congress has no power to enact a statute in contravention of the First Amendment, which explicitly states that “Congress shall make no law” in contravention of its protections.

COMMITTEE ACTION:

This bill was introduced by Representative Walberg on February 13 and referred to the House Committee on Oversight and Government Reform. The committee held a markup on February 14, and reported the bill by a vote of 22-16.

The committee report is available [here](#).

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found [here](#)

CONSTITUTIONAL AUTHORITY:

According to the sponsor: Congress has the power to enact this legislation pursuant to the following:

“Article I, Section 8, Clause 3 of the Constitution of the United States; the power to regulate commerce among the several states and Article I, Section 8, Clause 18 to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.

The bill will prevent Executive Agencies from violating the rule and spirit of the Administrative Procedures Act by requiring additional transparency about public communications made by the agencies; most importantly communications made with the intent of artificially promoting support for pending regulatory actions. Congress has the authority to limit regulations by the Executive branch under its Commerce Clause power and it is necessary and proper to introduce legislation to effectively carryout this power.”

